1. Introduction

1.1 Brief Overview

This brief overview is intended to give the reader a general awareness of the reasons for the buildout and operation of the James A. Musick Jail Facility ("Musick Jail") and the size of the buildout.

This Environmental Impact Report (EIR) has been prepared by the County of Orange to evaluate the environmental consequences, mitigation measures and project alternatives associated with the buildout and operation of the Musick Jail.

The current EIR is the second EIR prepared on the Musick Jail. The first EIR was certified in 1986 (Final EIR 447). The current EIR discusses the final buildout and operation of the jail facility in this location.

The shortage of jail beds continues to be a critical concern in the County of Orange jail system. The long-term jail facility site was determined to be infeasible by the Board of Supervisors in 1991, and increased demand for jail beds has resulted in a situation where immediate relief to the demand for jail beds must be found.

It is intended that this EIR be considered in the decision-making process, along with other information presented on the project, such as the public proceedings on the project. Pursuant to CEQA Guidelines §15200, this EIR will serve the following purposes of review:

- a. Sharing expertise
- b. Disclosing agency analyses
- c. Checking for accuracy
- d. Detecting omissions
- e. Discovering public concerns
- f. Soliciting counter proposals.

This EIR has been prepared at the grading, construction and operational level of detail. This EIR identifies and discusses every significant impact, mitigation measure and project alternative with relationship to this project, using its best efforts to forecast, while incorporating requests by the public and responsible agencies for consideration of specific measures and/or alternatives. This EIR provides sufficient information for the public and the decision makers to construct an array of alternatives, even beyond those included in the "Project Alternatives" section of this EIR.

Furthermore, this EIR, while not a Subsequent EIR, will not engage in repetitive discussions that have been resolved in previous EIRs. As authorized by CEQA, and where



appropriate, the reader will be referred to those previous EIRs for analyses, and to that extent those EIRs will be incorporated by reference into this EIR.

The County has elected to prepare an EIR on this project in order to elicit full public input. Although not required by CEQA when the Lead Agency decides to prepare an EIR, the County of Orange prepared a detailed Initial Study and distributed this document with the Notice of Preparation for public information purposes. If an issue has been previously settled or determined, it will not be analyzed in this EIR. This EIR addressing the ultimate buildout of the Musick Jail will direct the reader to those documents where issues have already been addressed.

The mitigation measures included in this EIR are designed to reduce or eliminate the environmental impacts described herein. Where a mitigation measure described in the EIR has been previously incorporated into the project, either as a specific feature of design or a mitigation measure, this fact is noted in the discussion. Mitigation measures are structured in accordance with the criteria in §15370 of the CEQA Guidelines. This section provides generally that "mitigation" includes:

- a. Avoidance of an impact;
- b. Minimization of an impact;
- c. Rectifying an impact by restoration;
- d. Reducing or eliminating an impact over time by preservation and maintenance operations; and
- e. Compensating for the impact by replacing or providing substitute resources or environment.

Clearly, this Guidelines section is aimed at effects on the physical environment, as opposed to other types of effects which may arise as a result of this project.

Additionally, mitigation measures have been drafted to meet the requirements of *Public Resources Code* §21081.6 as fully enforceable monitoring programs. Therefore, the drafting approach defines the following for each mitigation measure:

- 1. A time for performance In each case, a time for performance of the mitigation measure, or review of evidence that mitigation has taken place, is provided. The performance points selected are designed to ensure that impact-related components of project implementation do not proceed without establishing that the mitigation is assured.
- 2. A responsible party for supervising performance In each case, a public official is named in the mitigation measure as responsible for ensuring that

the mitigation is carried out. To guarantee that the mitigation measure will not be inadvertently overlooked, the supervising public official is the official who grants the permit or authorization called for in the performance.

3. <u>Definition of mitigation</u> - In each case (except where a mitigation measure, such as a geotechnical report, is a well known procedure or term of art), the mitigation measure contains the criteria for mitigation, either in the form of adherence to certain adopted regulations or identification of the steps to be taken in mitigation.

To further facilitate the monitoring of these measures during project implementation, each measure has been drafted in a manner suitable to use as a condition of approval. Further measures may, and probably will, be developed in the course of the review of this EIR and will be incorporated into the resolution of findings.

Why Is the Musick Jail Being Considered for This Expansion?

The expansion of the jail facilities in the County has been the source of significant controversy in County history.

Several comments received prior to the publication of the Draft EIR opined that the County has decided to focus on the Musick Jail for expansion in a sudden and previously unanticipated manner. This is not in fact the case. At the time of the abandonment of the Gypsum Canyon Jail by the Board of Supervisors on October 22, 1991 (Resolution No. 91-1249), the Board indicated that it would focus on other sites. At that time, the Board indicated that future efforts be redirected, and noted the extreme difficulty in acquiring new land for a jail facility. The Board made note of the possibility of County-owned land being appropriate for jail expansion. This is noteworthy, as the August 12, 1987 resolution of the Board of Supervisors (Resolution No. 87-1131) certifying the Final EIR for the Long Term Jail Facility at Coal/Gypsum Canyons specifically stated that the Musick Jail facilities would be moved to the new Long Term Jail. When this jail site was abandoned, the relocation of the Musick Jail facilities to the long-term jail site was similarly abandoned.

Just before the Gypsum Canyon jail site was abandoned by the Board, the Board had directed staff to prepare a report on short-term solutions to jail overcrowding (Minute Order; October 1, 1991). The staff returned to the Board with this report, and it was considered by the Board on January 28, 1992. This report did in fact consider the expansion of the Musick Jail, but rejected this expansion serving as a short-term solution.

¹Report on Short Term Jail Solutions; County Administrative Office, County of Orange, 1/16/92. [Incorporated herein by reference.]

²Ibid., pages 2-3

It is noteworthy that the report did not reject Musick as a long-term facility, and this no doubt was the source of the controversy experienced on the Short-Term Jail Solutions report (see below). The report also recommended seeking immediate legislative relief from CEQA for future expansion of adult and juvenile detention facilities. While the Board ultimately rejected the recommendation that legislative relief from CEQA for future jail expansions be sought, it is clear from the record that the participating public understood the exemption to potentially support the expansions at the Musick Jail. For example, a letter dated January 28, 1992 from Barbara Vaughan of the South Orange County Chamber of Commerce and addressed to the Board states in pertinent part:

"The committee is particularly concerned about recommendation 2.E. to lobby the State Legislature 'to grant exemption from the California Environmental Quality Act for the construction or expansion of jail . . . facilities . . .' which could include the James Musick Facility.

We strongly support CEQA compliance for the protection it offers the community and businesses adjacent to the Musick facility, and we oppose any efforts to bypass CEQA or to reduce its requirements in relation to the Musick facility. We further oppose any long-term consideration of this facility for anything other than the current minimum-security purposes for which it was designed and properly approved."

The letter³ went on to state that the Chamber was speaking as a representative of several area Chambers of Commerce, including Lake Forest and Laguna Hills. A then-Mission Viejo City Councilman, Robert Curtis, also spoke against the expansion and housing a higher classification of inmates at Musick, although he indicated in his testimony the he was representing the Orange Political Action Committee.⁴

In the Board's action on January 28, 1992, it was decided to focus on expansion of the Theo Lacy Facility in the City of Orange because it was considered best suited for the expansion of facilities in the near term (the next one to five years). On August 8, 1995 the Board certified the Final EIR for the last expansion of the Theo Lacy facility. This expansion utilizes all of the land available at that facility, and will ultimately house 3,111 inmates at all classification levels. At that time, Supervisor William Steiner called for commencement of the process of solving the jail facilities problem.⁵

³Letter from Barbara Vaughan, South County Chamber of Commerce, dated January 28, 1992. [Incorporated herein by reference.]

⁴Minutes of the Board of Supervisors, January 28, 1992.

⁵Board of Supervisors, August 8, 1996. Supervisor Steiner stated that the County "must come up with a long term alternative for the long range housing needs of the jail population in Orange County at the end of this decade and into the new Century."

On May 23, 1996, following the Board's consideration of bankruptcy related issues, the Board initiated work on an EIR for the expansion of the Musick Jail site⁶, the only site owned by the County with sufficient area for significant expansion. The County had to focus on the 100-acre Musick site at that point, due to the inability to acquire a site quickly (discussed elsewhere in this EIR). The Musick site cannot be sold to acquire another site. As a part of the County financial recovery program,⁷ the County has authorized and sold recovery bonds in the form of certificates of participation (COPs). These COPs are secured by County real estate, of which a certain portion must be "essential" County facilities and lands. The Musick Jail site is one of the essential County facilities and lands which secure the COPs. The provisions of the COPs restrict the sale, exchange or mortgaging of the Musick Jail site and other essential facilities for at least ten years, and probably longer. A more complete discussion of this financial constraint appears in Section 7 under "Alternative Sites Within the County."

All of the foregoing events were reported in newspapers of general circulation in the County.

The focus of the foregoing narrative is to demonstrate that the County has not suddenly directed attention to the Musick Jail site for its expansion needs. Ever since the Board of Supervisors abandoned the long-term jail site at Gypsum Canyon and redirected efforts at County-owned sites, the Musick site has been studied for expansion. Furthermore, the Musick site has been repeatedly suggested as an area for expansion in the annual Final Reports of the Orange County Grand Jury, most recently in December of 1995. The focus on County-owned sites or property has been made necessary as well by the County's financial situation as a result of the bankruptcy.

1.2 Brief Project Description

The Musick Jail expansion as proposed will increase the current jail population of approximately 1,200+ inmates to a capacity which houses 7,584 inmates, including those accommodated in medical beds. The facility will also change from a minimum security facility to an all classification (minimum/medium/maximum) security facility.

The project is proposed in multiple phases, depending on funding. Three complexes are proposed, as follows:

1. Complex 1 consists of the construction of 864 additional beds (including 480 medical beds).



⁶On December 6, 1994 the County petitioned for protection under Chapter 9 of the U.S. Bankruptcy Code.

⁷The bankruptcy court approved a financial recovery program permitting the County to emerge from bankruptcy in June 1996.

⁸FEIR 447 for the Musick Facility authorized 1,535 inmates.

- 2. Complex 2 consists of the construction of 2,880 beds.
- 3. Complex 3 consists of 3,840 beds.

Male and female inmates will be accommodated. Booking and release of inmates is also proposed. This EIR utilizes a base population of 1,256 inmates of a minimum security classification.

This facility is evaluated at the largest feasible population which is operable at the facility on a long-term basis — 7,584 inmates. The "crowded/emergency" scenario is 7,968 inmates. However, due to the short term of an emergency condition (e.g., the "drywallers' strike was only a few days") and the small number of additional inmates (384), this emergency condition produces no different impacts than the largest long-term population.

A Sheriff's Southeast Station, the ancillary facilities to the jail (warehouse, central plant, food service, laundry, staff and visitor parking structures, etc.) and the relocated Interim Care Facility are proposed to be built at this site.

1.3 Statutory Authority

The preparation of Environmental Impact Reports is governed by two principal sets of documents: The California Environmental Quality Act (hereinafter "CEQA", *Public Resources Code* §21000, et seq.), and the CEQA Guidelines (California *Code of Regulations* §15000, et seq.). Additionally, the County of Orange has adopted Environmental Impact Report procedures, and case law provides substantial guidance to this EIR. Where appropriate and supportive to an understanding of the issues, reference will be made to the statute, Guidelines, or appropriate cases.

On June 6, 1996, the County of Orange issued a Notice of Preparation (NOP) for this project to two responsible, trustee and involved federal agencies, as well as transportation agencies, as required by §15082 of the CEQA Guidelines. The NOP was also provided to surrounding cities and 164 individuals and organizations that might have interest in the project. The provision of the NOP to individuals and organizations that have expressed interest is in excess of state law requirements and is done in an effort to encourage the broadest possible basis for public input. The NOP and the Initial Study, together with the comments received thereon, appear in Appendix B.

Additionally, a 3-hour Scoping Meeting was held on July 8, 1996 to present the public with an overview of the project and solicit further public input. To the extent that public input focussed on issues within CEQA, this input has been incorporated into the EIR.

1.4 Issues to be Addressed

Areas of controversy and issues to be resolved are found in Section 2.3 of this EIR in the Executive Summary. The issues to be addressed were derived from the Initial Study review, preliminary consultation with other public agencies, and a review of the extensive record for jail matters in the County.

This EIR contains substantial evidence to support all of the conclusions presented herein. That is not to say that there will not be disagreements with these conclusions. Both the Guidelines (California Code of Regulations §15151) and, more particularly, case law provide clear standards for treating disagreement among experts. Where evidence and opinions of experts conflict on an issue concerning the environment, and the agency knows of these controversies in advance, the EIR must acknowledge the controversies, summarize the conflicting opinions of the experts, and include sufficient information to allow the public and the decision makers to take intelligent account of the environmental consequences of their action.

In rendering a decision on a project where there is disagreement among experts, the decision makers are not obligated to select the most conservative, environmentally protective or liberal viewpoint. They may give more weight to one expert than another, and need not resolve a dispute among experts. In their proceedings, they must consider the comments received and address objections but need not follow said comments or objections so long as they state the basis for their decision and that decision is supported by substantial evidence.

1.5 Organizations Affiliated With the Project

The Orange County Board of Supervisors, acting through the Orange County Planning and Development Services Department, is the lead agency for this project, which will be heard by the County of Orange Planning Commission and the Board of Supervisors. The Board of Supervisors is responsible for selecting the site for the jail and overseeing the financing and construction of the jail through the Public Works Department in coordination with the Orange County Sheriff. Additionally, the Orange County Sheriff-Coroner is the responsible agency under CEQA for this project and will ultimately, pursuant to state law, become the sole and exclusive authority to operate the jail. Therefore, the Orange County Sheriff-Coroner and his department have been directly involved in developing this analysis.



Contact persons for the entities involved in the project are as follows:

County of Orange

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Brad Gates Orange County Sheriff-Coroner 550 N. Flower Street P.O. Box 449 Santa Ana, California 92702 (714) 647-1800

Jerry Krans Assistant Sheriff - Corrections 550 N. Flower Street P.O. Box 449 Santa Ana, California 92702 (714) 647-1802

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Environmental Consultant

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Other organizations affiliated with the project are listed by topical area:

Transportation
Austin Foust Associates
GSL Associates

Engineering

Robert Bein, William Frost and Associates

Noise and Air Quality
Mestre Greve Associates

Hazardous Materials Assessment Phase One, Inc.

Economic Consultant
Tarantello & Associates

Site Plan Design

Orange County Sheriff's Department Planning and Development Services Department; Harbors, Beaches & Parks

1.6 Incorporation by Reference

Certain documents are to be incorporated by reference into this EIR pursuant to CEQA Guidelines §15150. Where a document is incorporated by reference, its pertinent sections will be briefly summarized and referenced in the discussions in this EIR. The location where a copy of the document incorporated by reference may be inspected is described in Chapter 12 of this EIR.

1.7 Impacts Found Not to be Significant

Section 15128 of the CEQA Guidelines requires that the EIR must identify those impacts found not to be significant in the Initial Study process as well as the EIR process, accompanied by a brief explanation of why these impacts were found insignificant. Reference will be made to the Initial Study in Appendix B, and the appropriate topical sections of this EIR for identification and justification as to why those impacts were found insignificant.

1.8 Socioeconomic Effects

The "Project History" section of this EIR describes some of the past proceedings concerning this project and its general area. One of the areas which normally receives great attention during an EIR's public review period is economic and social effects, even though these issues are not always entitled to analytical treatment in the CEQA process. Economic effects would include depreciation of land values in the area due to the presence of the jail if any occurred, and public fears concerning the jail. Concerns regarding perceptions of possible inmate escapes, possibility of relocation of inmate

families to the vicinity of the jail, fear of increases in crime, and safety considerations are also typically expressed.

1.9 Responsible Agencies and Agencies Consulted

Only one principal Responsible Agency exists with respect to this project, and that is the Orange County Sheriff-Coroner. Other agencies which have regulatory or permitting authority are the State Board of Corrections, the Federal Aviation Administration and the State Fire Marshal. Other agencies expected to be involved in some way in the project, but which are not Responsible Agencies are:

- Health Care Agency
- Social Services Agency
- Irvine Ranch Water District
- Orange County Transportation Authority
- Orange County Local Redevelopment Authority

